



# Idaho Trout Company

## IDAHO TROUT PROCESSORS COMPANY

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DEPARTMENT OF  
WATER RESOURCES

May 26, 2008

Mr. Vic Armacost  
Mr. Leonard Beck  
Mr. Gary Chamberlain  
Idaho Water Resource Board  
Idaho State Water Plan Subcommittee  
P.O. Box 83720  
Boise, ID 83720-0098

RE: Draft language in Section 5G-Snake River Basin Springs.

Dear State Water Resource Board,

Idaho Trout Company and it's farms, which include Blue Lakes Trout Company, Clear Lakes Trout Company, Rim View Trout Company et.al. have objections to portions of the Draft Language cited above.

First of all, spring water flows are still declining due to mismanagement and over appropriation of the Eastern Snake Plain Aquifer. The Draft Language avoids the hard reality that the State has the responsibility to manage the aquifer so as to avoid the disastrous effects of over-appropriation and erosion of the water supply in the face of significant global climate change. Idaho has existing laws to arrange orderly adjustments to over appropriation. To protect existing priority water rights and to account for effects of the drought, the State must manage consumption of water, and not further exacerbate the problem by inserting the language contained in Section 5G.

It may be helpful to imagine the scale of the problem as a postulate: when non-consumptive spring water is gone then all water is gone. One may dispute the implied equation, but the long term implications are germane. Management of consumption is the issue.

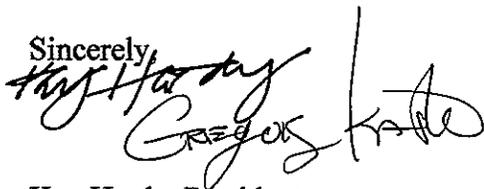
Now, Section 5G shows proposed draft language as follows: "It must be recognized that future management and climate conditions may reduce present spring flows and while existing water rights are protected it may be necessary to construct different diversion facilities than presently exist". This language violates the prior appropriation doctrine which is the law of the State of Idaho; a new caveat like the language in Section 5G that mouths protection of existing water rights while condoning their depletion, is a transparent travesty of the State's duty to manage and protect the aquifer.

Briefly, "diversion facilities" for pumpers differ qualitatively from those that characterize spring water diversions where the "facilities" are more aptly described as "geologic formations". It is one thing to propose moving or altering the location of a pump, quite another to move basalt cracks from which spring water flows. Spring water diversions are actual physical sites that are one of the defining characteristics of the water right. The legality of the draft language is suspect and there is no authority for the insertion of new language to change existing diversion facilities.

The holders of senior spring water rights seem to find themselves in what may be a curious position. The text on page three, 2<sup>nd</sup> paragraph under the section titled State Water Plan Formulation, reads as follows: "This plan continues to evolve as an instrument in the adoption and implementation of policies, projects, and programs that develop, utilize, conserve, and protect the state's water supplies." This objective is wonderful, and success with this goal is absolutely essential. Holders of senior non-consumptive water rights have raised their voices and drilled their pocket books attempting to focus political courage on the aquifer decline. We laud the goal, but protest the draft language, which undermines the goal.

The springs are essentially the barometers, the measuring instruments that indicate conditions of the aquifer, of its fitness or of its exhaustion. The problem is not solved by a proposal to move a diversion.

In conclusion, we think the Idaho Water Resource Board should appreciate, and be grateful, that the senior non-consumptive water users are raising such a "stink" about the problem. The problem is consumption. Management which accepts declines of senior priority water rights merely postpones an inevitable catastrophe for which the State will bear primary responsibility.

Sincerely,  


Kay Hardy, President  
Gregory Kaslo, Vice-President  
Idaho Trout Company  
Blue Lakes Trout Farm  
Clear Lakes Trout Farm  
Rim View Trout Farm  
Billingsley Creek Trout Farm (FDC)  
White Springs Trout Farm